IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 7TH FEBRUARY 2007 / 18TH MAGHA 1928

Crl. Rev. Pet.No. 4161 of 2006(A)

ST.2587/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, NILAMBUR

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REVN. PETITIONER: DEFACTO COMPLAINANT

P.T.MOHAMMED, AGED 62 YEARS,
S/O.ALI, PARATHODIKA HOUSE,
VENGAPARATHA, AMARAMBALAM P.O.,
NILAMBUR TALUK.

BY ADV. SRI.P.SAMSUDIN

RESPONDENTS: ACCUSED AND STATE

1. ALAVI, S/O.MOHAMMED,
KUNDILTHODIKA HOUSE,
AMARAMBALAM AMSOM, VENGAPARATHA DESOM,
NILAMBUR, MALAPPURAM DISTRICT.

2. MOHAMMED, S/O.MOYIN, KONDENGADAN HOUSE,
AMARAMBALAM AMSOM, VENGAPARATHA DESOM,
NILAMBUR, MALAPPURAM DISTRICT.

3. ABDUL AZEEZ, S/O.MOIDEEN,
PALATHODIKA HOUSE,
AMARAMBALAM AMSOM, VENGAPARATHA DESOM,
NILAMBUR, MALAPPURAM DISTRICT.

4. ASKAR, S/O.MOHAMMED, KANNAMPALLY HOUSE,
AMARAMBALAM AMSOM, VENGAPARATHA DESOM,
NILAMBUR, MALAPPURAM DISTRICT.

5. ALIYAR, S/O.MOHAMMED, POTTEL HOUSE,
AMARAMBALAM AMSOM, VENGAPARATHA DESOM,
NILAMBUR, MALAPPURAM DISTRICT.

6. REVI, S/O.CHELIL, PADIKKAL HOUSE,
AMARAMBALAM AMSOM, VENGAPARATHA DESOM,
NILAMBUR, MALAPPURAM DISTRICT.

7. STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 4161 OF 2006 A

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Dated this the 7th day of February 2007

O R D E R

The revision petitioner, who is the complainant in ST 2587/2004, has sought for revising the order of the court below acquitting the accused in the private complaint filed by him and forwarded to the police under section 156(3) Cr.P.C and the crime registered as No. 423/2004 with respect to the offence under Sections 143, 147, 447, 427, 506 (1) r/w 148 IPC. The police charge sheeted the case against the accused who are six in number. All the occurrence witnesses were examined. PW1 turned hostile. The evidence of PW2 was found to be totally unconvincing. As per his version that the 1st accused cut down a coconut tree aged 17 years and the 4th accused cut down a teak tree aged 7 years and the 2nd accused cut down a tamarind tree aged 4 years, within no time. It is also found that the evidence of the above witnesses is contradictory to their section 161 statements recorded by the police. It was also found that there

is a delay of 16 days in initiating proceedings which was not properly explained. The allegation as to the number of persons involved also varied in evidence as well as in the complaint filed. It was specifically alleged that the accused and 15 others tresspassed into the property. But, subsequently the allegation was confined only to the accused. It is the version that on hearing the cry of PW2, the neighbours assembled and on seeing them the accused left. Hence, evidently coconut tree aged 17 years was cut down in a short time by a single person which is totally improbable. It was also brought out that there is a property dispute between PW2 and some of the persons with respect to a path-way.

In the light of the above findings, I find that no purpose will be served by revising the order of the court below and remitting the matter. In such circumstances, the revision petition is dismissed in limine.

K.R. UDAYABHANU, JUDGE.

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